

Message Text

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ORIGIN ARA-14

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TAGS: PGOV, SGEN, MX

SUBJECT: QUERY ON COURT DECISION ON ILLEGAL IMMIGRANTS

REF: MEXICO 20410

1. INsofar AS IT SUMMARIZES TEXAS APPELLATE COURT DECISION, EXCELSIOR ARTICLE APPEARS TO BE SUBSTANTIALLY CORRECT. CASE IN QUESTION IS HERNANDEZ ET AL. V. HOUSTON INDEPENDENT SCHOOL DISTRICT DECIDED NOVEMBER 16 IN COURT OF CIVIL APPEALS, THIRD SUPREME JUDICIAL DISTRICT OF TEXAS, AT AUSTIN. APPELLATE COURT UPHELD TRIAL COURT'S JUDGEMENT TO EFFECT THAT SECTION 21.031 OF TEXAS EDUCATIONAL CODE IS CONSTITUTIONAL. SCHOOL BOARD, UNDER THAT SECTION, DENIED TUITION-FREE EDUCATION TO PERSONS WHO WERE NOT CITIZENS OF U.S. OR LEGALLY ADMITTED ALIENS.

2. APPELLANTS CONTENTED THAT THIS PROVISION DENIED EQUAL PROTECTION OF THE LAW AND DUE PROCESS OF LAW. APPEALS
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COURT DECISION, COPY OF WHICH BEING POUCHED, INTER ALIA MAKES POINTS THAT: "THE FACT THAT A CHILD LEAVES HIS COUNTRY AND COVERTLY ENTERS THE STATE WITHOUT COMPLYING WITH THE IMMIGRATION LAWS, SHOULD NOT SOMEHOW CREATE A STATE RESPONSIBILITY TO PROVIDE HIM WITH A FREE EDUCATION.

THE CHILD SHOULD HAVE NO GREATER RIGHTS TO A FREE EDUCA-

TION, DUE TO HIS UNLAWFUL PRESENCE, THAN THOSE RIGHTS HE WOULD HAVE HAD IF HE HAD NOT COME TO THIS COUNTRY." ON CLAIM OF DENIAL OF DUE PROCESS, OPINION STATES THAT WHILE 14TH AMENDMENT PROTECTS ALL ALIENS, LEGAL AND ILLEGAL,... "IT IS EQUALLY TRUE THAT THE DENIAL OF TUITION-FREE EDUCATION IS NOT A DENIAL OF LIFE, LIBERTY OR PROPERTY."

3. COURT'S DECISION MAKES NO MENTION OF ANY LEGAL OBLIGATION ON PART OF HOUSTON SCHOOL OFFICIALS TO REPORT TO AUTHORITIES ALL TUITION PAYMENTS BY THOSE WHO CANNOT PROVE LEGAL RESIDENCE.

4. SIMILAR ISSUES NOW BEING CONSIDERED IN CASE OF DOE V. PLYLER IN U.S. DISTRICT COURT OF EASTERN DISTRICT OF TEXAS, WHICH MAY BECOME OF INTEREST TO MEXICAN MEDIA. CASE INVOLVES EFFORTS BY UNNAMED ALIENS TO SECURE PERMANENT INJUNCTION AGAINST SCHOOL AUTHORITIES REQUIREMENT OF TUITION PAYMENTS FROM ILLEGAL ALIEN CHILDREN. DISTRICT COURT HAS ALREADY GRANTED REPLIMINARY INJUNCTION AGAINST THE SCHOOL AUTHORITIES AS HEARINGS ON PERMANENT INJUNCTION PROCEED.
CHRISTOPHER

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